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Letter dated 23 April 2008 from the Permanent Representative of Spain to the United Nations addressed to the President of the Security Council

I have the honour to inform you that on 20 April 2008, a Spanish fishing boat, the *Playa de Bakio*, was captured by unidentified persons on the high seas, some 230 miles off the coast of Somalia. The vessel carried a crew of 26, of whom 13 are Spanish nationals; the remaining 13 are from Ghana, Madagascar, Senegal and the Seychelles.

On 20 April 2008, at 11 a.m. GMT, the crew of the *Playa de Bakio* were captured by a group of about a dozen heavily armed and organized individuals aboard a fast launch. The assailants used rocket-propelled grenades that seriously damaged the vessel without affecting its seaworthiness or causing bodily injury. The assailants subsequently took the vessel and its crew by force to the Somali coast. The boat is currently anchored near the port of Hobyo and the crew are still being held against their will.

The Government of Spain immediately contacted the highest authorities of the Transitional Federal Government of Somalia, who have demonstrated their solidarity and cooperation, with a view to the prompt, non-violent release of the abducted sailors and the vessel. The Spanish Government has also contacted the African Union, other relevant organizations and relevant Governments on this matter. In addition, in order to monitor developments in the situation more closely, the Government of Spain has decided to dispatch a detachment of the Spanish navy to the region.

The Government of Spain strongly condemns the illegal seizure of the *Playa de Bakio* and fervently hopes that there will be no repetition of unfortunate incidents such as those which, regrettably, have occurred recently in the waters off the Somali coast and have been reflected in the Secretary-General's reports and in the relevant resolutions adopted by the United Nations General Assembly and the International Maritime Organization.

In that regard, the Spanish Government would like to stress the need for the international community to take joint, coherent action under United Nations auspices in order to prevent and punish such acts, which jeopardize the delivery and distribution of humanitarian assistance, contribute to the destabilization of the region and pose a threat to the safety of international maritime traffic.

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The Spanish authorities therefore wish to place this information before the Security Council as a contribution to the Council's work and discussions aimed at addressing effectively the serious illegal acts that affect the safety of the international sea lanes in the waters off Somalia.

I should be grateful if you would have this letter circulated as a document of the Security Council.

(*Signed*) Juan Antonio **Yáñez-Barnuevo**

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Report of the Secretary-General on children and armed conflict in the Philippines

Summary

The present report, prepared pursuant to the provisions of Security Council resolution 1612 (2005), is presented to the Council and its Working Group on Children and Armed Conflict as the first country report on the situation of children and armed conflict in the Philippines. It covers the period from 1 July 2005 to 30 November 2007. The report focuses on grave violations perpetrated against children in the Philippines including the recruitment and use of children, killing and maiming of children, sexual violence against children, attacks on schools and hospitals, denial of humanitarian access and abductions of children.

The report identifies parties to the conflict, both State and non-State actors, who commit grave abuses against children, including Government security forces, the Moro Islamic Liberation Front, the New People's Army and the Abu Sayyaf Group/Jemaah Islamiya.

The report acknowledges the significant challenges in addressing child rights violations in the Philippines. It also makes a number of recommendations, including the recommendation that State and non-State actors enter into dialogue with the United Nations for the preparation of action plans to end the recruitment and use of children by armed forces and groups, as well as other grave violations of children's rights. It also recommends that all parties to the conflict should facilitate access to their areas of operation and ensure the safety of staff for monitoring and reporting purposes. Finally, the report urges the Government to take all necessary measures to investigate and prosecute those responsible for grave violations against children in the Philippines.

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I. Introduction

1. The present report, which covers the period from 1 July 2005 to 30 November 2007, covers the six grave violations against children in situations of armed conflict in the Philippines, focusing on the recruitment and use of children by armed forces and armed groups, killing and maiming of children, abductions, rape and other sexual violence against children, attacks against schools and hospitals and denial of humanitarian access for children.

2. A country task force on monitoring and reporting was established in March 2007, jointly chaired by the United Nations Resident Coordinator and the United Nations Children's Fund (UNICEF). Its members include representatives of the United Nations country team, the Commission on Human Rights of the Philippines, local and international non-governmental organizations and civil society. The Philippines country task force is conducting a state-of-knowledge study on existing monitoring systems as its initial activity.

3. While the country task force has been as thorough as possible in preparing this first report on the situation of children and armed conflict in the Philippines, some gaps in data exist owing to difficulties with documentation, lack of access and uneven priorities of monitoring organizations. For this report, the country task force received reports from the Government's Commission on Human Rights and the Department of Social Welfare and Development but none from the Armed Forces of the Philippines. Some non-governmental human rights organizations are focusing documentation on violations committed by State security forces and are opting not to look into acts committed by non-State armed groups. In addition, lack of access and lack of monitors for non-State armed groups contributed to the dearth of cases against non-State armed groups.

II. Political, military and social developments in the Philippines

4. For nearly four decades, the Government of the Philippines has had to address intermittent armed conflicts, including with the Moro and the communist insurgencies. While the Moro groups seek autonomy, the communists purportedly seek the establishment of a communist-led society. The Moro conflict is largely concentrated in Mindanao while that of the communists is spread throughout the archipelago.

Moro conflict

5. The Moro conflict, originally led by the Moro National Liberation Front (MNLF), and is now led by the Moro Islamic Liberation Front (MILF), a breakaway Islamist faction of MNLF. A third armed group, localized in Mindanao, is the Abu Sayyaf Group, a radical Islamist group which employs terrorist tactics to achieve its objectives.

6. Through the mediation of the Organization of the Islamic Conference, the Government of the Philippines and MNLF signed the Final Peace Agreement in September 1996, which provides for the demobilization and integration of 7,250 MNLF members into Government military and police units, but not for any general disarmament of MNLF. The Final Peace Agreement has no specific provision for

children except for placing the educational system under the administration of the agreed regional autonomous government.

7. A cessation of hostilities was agreed between MILF and the Government of the Philippines in 1997 and in July 2003. Both signed the Tripoli Agreement on Peace in June 2001, defining three areas for peace negotiations: ancestral domain, security and rehabilitation and development. The security aspect of the Tripoli Agreement covers the cessation of hostilities and security arrangements but does not mention disarmament. Negotiations with MILF reached an impasse in December 2007 when the MILF panel rejected a draft proposal on ancestral domain.

8. Despite peace and ceasefire agreements and a reported reduction in confrontations with MNLF and MILF since 2003, there have been occasional armed clashes with Government forces, largely concentrated in a few provinces of Mindanao. In March 2007, MNLF fighters under their commander, Ustadz Habier Malik, engaged Government troops in gun battles resulting in casualties and the displacement of over 60,000 people in the Province of Sulu in the south-west of Mindanao. MILF engaged in clashes with Government security forces on two occasions in 2006, resulting in the displacement of 72,000 people in Mindanao. An armed encounter in July 2007 in Basilan Province, located at the southern tip of the Zamboanga Peninsula in Western Mindanao, left 14 Government soldiers and 6 MILF fighters dead. Roughly half of the displaced were children, who were subsequently unable to attend school and in many cases suffered from conflict-related trauma. Ceasefire monitoring mechanisms including the international monitoring teams, with members from Malaysia, Brunei, Japan, the Libyan Arab Jamahiriya and Canada, the joint Government-MILF coordination committees for the cessation of hostilities and the civil society-led "Bantay-Ceasefire" have all worked to contain these conflicts between the Government and MILF.

Communist insurgency

9. The communist insurgency is led by the Communist Party of the Philippines (CPP), its armed wing, the New People's Army (NPA), and its clandestine sectoral group, the National Democratic Front (NDF), all purportedly espousing a Maoists ideology. Other small Marxist-Leninists groups that separated from CPP-NPA-NDF include the Revolutionary Workers Party-Philippines (RPM-P) and the Revolutionary Workers Party-Mindanao (RPM-M), both of which currently have ceasefire arrangements with the Government.

10. Peace negotiations between the Government and CPP-NDF have been intermittent to date. The administration of President Fidel Ramos renewed peace negotiations resulting in the Hague Joint Declaration of 1992, the Joint Agreement on Safety and Immunity Guarantees of 1995, providing for the protection of negotiators against arrest, and the Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law. Although President Joseph Estrada signed the latter agreement on 7 August 1998, further progress has been stalled.

11. While armed clashes with NPA decreased in 2006, there was an upsurge in extrajudicial killings of leftist leaders in the same year, signalling a shift in counter-insurgency strategy on the part of the Armed Forces. The "Nine Point Guidelines", issued by President Gloria Magapagal-Arroyo in August 2002, treats CPP-NPA-NDF as a "terrorist" rather than a "rebel" group. In June 2006, the President declared "all-out war" against CPP-NPA-NDF, vowing to eliminate them by the end

of her term in 2010 and announcing in 2006 the retraining and redeployment of at least 3,000 Government troops for an anti-communist offensive, including at least 20 companies of the Citizens Armed Force Geographical Unit (CAFGU).

12. Officials of the Armed Forces of the Philippines have been reported as estimating the strength of the various armed groups as follows: MNLF — 700; MILF — 11,700; Abu Sayyaf Group — 383; NPA — 5,760; RPM-P and RPM-M — unknown.

Security forces of the Philippines

13. The Government of the Philippines security forces are composed of units of the Armed Forces of the Philippines, the Philippine National Police and the paramilitary CAFGU and Civilian Volunteer Organizations. CAFGU was created through Executive Order 264 issued on 25 July 1987 as a group of community self-defence units commanded by the Armed Forces of the Philippines. While CAFGU was designed to be composed of trained reservists in order to avoid any abuses, reports indicate that this policy has not been strictly followed. The Civilian Volunteer Organizations comprise the unarmed component of the Government's counter-insurgency strategy and intelligence network, meant to prevent "incursions" of anti-Government groups into their communities.

III. Grave violations against children

14. The country task force is in the process of setting up a full monitoring and reporting mechanism as outlined under Security Council resolution 1612 (2005). It has also consulted other entities, governmental and non-governmental, monitoring child rights violations. The country task force has received verified reports of 116 cases of grave violations against children during the reporting period. Half of these cases were attributed to Government security forces, 30 per cent to NPA, 15 per cent to the Abu Sayyaf Group/Jemaah Islamiya[1] and 1 per cent to MILF, while 3 per cent were undetermined. The lower number of cases reported against NPA, MILF and the Abu Sayyaf Group/Jemaah Islamiya is most likely due to a lack of access to these groups by the country task force and the absence of focused reporting on violations by those armed groups to date. Half of the child victims were from Mindanao and 30 per cent from Luzon. One out of three were girls. Government reports came mainly from the Department of Social Welfare and Development, which focused its reporting on the recruitment and use of children by NPA, and the Commission on Human Rights of the Philippines, which submitted reports on violations by various groups. The country task force also received reports from the NDF and Government monitoring committees for the Comprehensive Agreement on Respect for Human Rights.

A. Recruitment and use of children by armed forces and groups

15. The recruitment and use of children has been a controversial and sensitive issue for MILF and NDF, and attempts by Government peace panel members to

[1] Jemaah Islamiya is another Islamist group closely associated with the Abu Sayyaf Group and Al-Qaida.

place it on the agenda in peace negotiations have failed because it is perceived to cause tension among the parties. To date there has been no mention of child recruitment in peace processes and negotiations.

16. A UNICEF-commissioned study on children and women in MILF and NPA areas found that children seek to associate themselves with these armed groups because of poverty, lack of access to basic social services and the influence of their families, peers and community members. Other motives include political commitment to NPA, religious ideology in the case of MILF or the lure of material reward or compensation in the case of Abu Sayyaf or CAFGU.

Moro Islamic Liberation Front

17. No entity is actively monitoring the recruitment of children by MILF although it is acknowledged that children are involved, and children have been seen carrying firearms on numerous occasions in MILF camps and communities. A 2001 study by the International Labour Organization (ILO) on child soldiers in central and western Mindanao estimated that 10 to 30 per cent of the population in any rebel-influenced area are children participating in activities directly related to the armed conflict. According to the ILO study, children were most commonly used in carrying out patrols, performing sentry duty, preparing food and providing medical support. The MILF leadership defines the age of maturity at puberty, which they say is based on Islam (13 or 14 for boys, and 11 or 12 for girls). This position is borne out in their stand on the issue of children in their ranks.

18. The declared policy of MILF, as expressed in an official statement by the late Chairman Salamat Hashim in 1999 in *Maradika*, the official publication of the central Committee of MILF, is that it does not recruit children, with some important exceptions. MILF claims that it has the right to assume a custodial role for orphans whose parents are killed in the war and to provide them with military training on a "voluntary" basis. A senior MILF officer stated that children who volunteer for training are not involved in combat and have "auxiliary assignments such as mail couriers or bringing food during times of war". MILF believes that "in exceptional situations where the community is under attack" children may be allowed to defend their community and when they reach the age of discretion (i.e. at the age of puberty, as young as 13 years), "jihad" is obligatory. Indeed, MILF policy on the recruitment of children directly contravenes Philippine national legislation, the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, to which the Philippines is a signatory, and international humanitarian law.

19. A UNICEF-commissioned study conducted from July 2005 to February 2006 corroborated the nature of the MILF policy. The majority of children currently and formerly associated with MILF had been drawn into the conflict after losing their parents or as a result of their community coming under attack. Three children, aged 14, 16 and 17 years at the time of being interviewed in late 2005, stated that they had joined MILF (at the ages of 9, 11 and 12 years) after having lost one or both parents during a 2000 Government offensive. The 16-year-old said that he had only been allowed to join MILF as a regular at age 13 although he had wanted to join at age 11 following his father's death in an artillery bombardment. He helped his mother with work on the farm or catching fish if he had no assigned duty and he expressed a desire to continue his studies, as he had dropped out of the second grade. The young MILF recruits said that they were trained militarily and given

Islamist education. They described their lives as "normal" while living in MILF camps although they had been involved in fighting in 2002 and 2003 when their village came under attack.

New People's Army

20. The Communist Party of the Philippines (CPP) has issued a number of policy directives prohibiting the recruitment of children, including an October 1999 memorandum declaring adherence to international humanitarian law (specifically article 77, paragraph 2 of the Protocol Additional to the Geneva Conventions of 12 August 1949 and Relating to the Protection of Victims of International Armed Conflicts) and recognizing the Convention on the Rights of the Child. While the minimum age for the recruitment of NPA members and their participation in hostilities is officially 18, in practice children aged 15 and older are reported to have been admitted as trainees or apprentices of the New People's Army and may be assigned to self-defence, militia and other non-combat units and tasks. The policy allows for the mobilization of persons above 15 years of age in case of enemy aggression in clear violation of Philippine law and the provisions of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict.

21. CPP interprets the 1999 memo as a "declared automatic accession to the proposed Optional Protocol to the Convention on the Rights of the Child" even before it was signed by the Government of the Philippines. The Central Committee reiterated these policies during its 11th plenum in late 2002, issuing a resolution and requiring compliance by all NPA units. However, the NPA practice of inculcating children in its units shows contradiction to this declaration and needs to be examined in fuller detail.

22. A UNICEF-commissioned study on the implementation of the NPA policies was undertaken from June 2005 to February 2006. The study confirmed the disturbing practice of the NPA of using children for non-combat duties, putting the lives of these children at risk. Community residents confirmed that children supported NPA in non-combatant functions including as porters, cooks and messengers. Other children accompany NPA cultural presentations or are formed into community youth organizations.

23. During the reporting period, 31 children allegedly associated with NPA were taken into custody by the Armed Forces of the Philippines during combat operations, the majority of the children were between 15 and 18 years of age, and 30 per cent were girls. Most of the children were in military custody for varying amounts of time before being transferred to the Department of Social Welfare and Development and at least 10 reported being beaten or subjected to other physical violence while in custody, with some being exposed to media and presented as "NPA child combatants" in violation of existing Government procedures. One case involved three boys aged 15 to 17 who, together with two other young men, were arrested by Philippine army soldiers near the site of an armed encounter with NPA in Negros Occidental Province in the Visayas in 2006. During their tactical interrogation, the five were hogtied and their heads intermittently covered with plastic bags to force them to admit to their association with NPA. The minors were later turned over to the Department of Social Welfare and Development without charges being filed against them while the two adults were charged with illegal possession of firearms and explosives.

24. At least nine of the children have been charged in court with rebellion and illegal possession of firearms, 14 have been reunited with their families, nine are with the Department of Social Welfare and Development, two remain under military custody and the status of six is unknown. Some of the cases have been questioned by local human rights groups. One case study provided by the Government peace panel noted that "... the Government's earnestness to rescue child soldiers and to prove the NPA's use of children has led a number of military units to label innocent children as NPA soldiers".

Abu Sayyaf Group/Jemaah Islamiya

25. There is little data about the recruitment of children or about the Abu Sayyaf Group/Jemaah Islamiya itself due to lack of access and security concerns. The Abu Sayyaf Group is most active in the Provinces of Basilan and Sulu in the southern Philippines, although terror acts attributed to them by the authorities have happened in Manila and in cities in Mindanao. Government security forces believe that the Abu Sayyaf Group/Jemaah Islamiya has been enticing young people to join its ranks. Video footage played by the media of Abu Sayyaf Group members involved in kidnappings shows adolescent boys carrying rifles. Earlier United Nations case studies on some children formerly associated with the Abu Sayyaf Group revealed that the promise of material rewards, money and weapons was used to lure children to join its ranks.

Armed Forces of the Philippines

26. National laws set the age of recruitment for the military and the police at 18 years and the country task force has received no reports of recruitment of children into the Armed Forces of the Philippines. However, there are indications that these laws are not being respected in the recruitment for the Government paramilitary forces, CAFGU. The country task force received a report of a 15-year-old boy in Quezon Province taken into custody by the military without the knowledge of his parents and trained as a member of CAFGU. Through the efforts of the boy's parents, the Commission on Human Rights of the Philippines and local human rights organizations, the boys were traced to a military camp in Rizal Province and were subsequently reunited with their families. The country task force has also received reports on the use of children for counter-insurgency and propaganda purposes. In one case in Bohol Province in the Visayas, central Philippines, a military officer used the son of a suspected NPA leader to lure him out of hiding. In another case, five male youths (including three children) were arrested in Agusan del Sur in March 2007 after a conflict and were presented as NPA combatants though there was allegedly a lack of evidence. No guns were found in their possession although they were photographed in front of guns, ammunition, explosives and subversive materials confiscated during the operations, potentially putting the children at risk. The youths were brought to Manila and two were presented to the national media as child NPA combatants. No charges were filed against the five and they were later released to their parents on 2 April 2007.

B. Killing and maiming

27. The country task force has gathered reports on the killing of 19 children and the maiming of 42 others in conflict situations between July 2005 and November 2007. Of the 61 recorded cases, 34 (55 per cent) were perpetrated by Government security forces, 18 (29 per cent) were attributed to the Abu Sayyaf Group/Jemaah

Islamiya, five (8 per cent) were attributed to NPA, one (1 per cent) was linked to MILF and three (4 per cent) had unidentified perpetrators. The shift of the Government's military focus from MILF to NPA from 2004 onwards is the main reason for the increase in incidents involving NPA and associated forces. Current ceasefire and peace negotiations with MILF are the main factors behind the lower number of reported incidents involving that group. The majority of the incidents related to the Moro conflict involved the Abu Sayyaf Group/Jemaah Islamiya, and bombings attributed to this group account for the higher ratio of casualties associated with it.

28. Of concern are a number of reports of children who, suspected of having links with armed groups fighting against the Government, have been physically abused by elements of the Armed Forces of the Philippines in the course of counter-insurgency operations. To illustrate this trend is a case in which three boys aged 13, 14 and 15 were walking towards the beach in Datu Odin Sinsuat town in the Province of Shariff Kabunsuan in central Mindanao, on 12 February 2006 when they were accosted by members of the Task Force Tugis of the Philippine Army's 4th Reconnaissance Battalion. The boys were brought to an army detachment where they were hit with a piece of wood. The beatings were so severe that they had to be hospitalized. The victims executed affidavits to the local office of the Commission on Human Rights in Cotabato City but no case was filed. A further case involved two minors, one a 15-year-old girl and the other a 16-year-old boy, who together with nine other young people were hitchhiking from Baguio City to Sagada town, Mountain Province in the Cordillera region of the northern Philippines. The young people were arrested on 14 February 2006 by members of the Philippine National Police and the Philippine army. They were suspected of being involved in the NPA raid of a military camp that had occurred a few days before their arrest although no evidence was found in their possession. The youths were detained for three days and made to suffer physical and mental torture and other indignities. The 16-year-old boy suffered from repeated kicks and punches, was buried chest deep and was repeatedly doused with cold water and had a gun cocked at his neck. The 15-year-old girl was stomped on while lying prone, kicked on the leg and had a plastic bag placed over her head. The two minors were released on recognizance on 30 May 2006. The rest were released a few months later when they were acquitted of robbery and homicide. The group filed countercharges in court and administrative charges against the AFP soldiers.

29. A total of 14 of the 19 children killed in conflict situations were shot, three were killed in bomb blasts and two were abducted and later decapitated. Of the 42 children maimed, 19 were by gunshots and 23 were bombing victims. Many incidents of shooting involved attacks on houses or moving vehicles. Most of the child victims were with family members suspected of being rebel supporters or were members of organizations accused of being rebel supporters. Others were caught in the crossfire during armed encounters.

30. A few of the child victims of killing or maiming were accused by Government security forces of being associated with rebel groups. A controversial case was that of a 9-year-old girl who was killed when Government soldiers clashed with NPA guerrillas near her home in Compostela Valley Province in south-eastern Mindanao. Her body was photographed with a rifle and presented by the military to the media as that of an NPA child combatant. The army later retracted its statement and admitted that the girl was a non-combatant. The Commission on Human Rights later ruled that the armed encounter

had resulted in the arbitrary deprivation of the right to life of the young child, and the parents were entitled to financial compensation. In the Province of Sulu in Mindanao, one 14-year-old boy was killed and another seriously injured when Government soldiers, apparently mistaking them for combatants, shot at the two boys while they were on their way home on 19 February 2007.

31. During the reporting period, the country task force recorded five separate bombing incidents which resulted in the killing of three and the maiming of 23 children. Three of the bombs were planted in public places. The Abu Sayyaf Group/Jemaah Islamiya has been held responsible for two incidents while one is attributed to MILF. The explosions in Kidapawan City on 7 October 2007 killed two young girls and wounded five other children aged 12 to 16 years. The improvised explosive device detonated in the Sulu Consumers' Cooperative convenience store on 27 March 2006 maimed seven children, one just 6 years old. Two Philippines Air Force aerial bombings wounded seven children. In one incident, in Talaingod, Davao del Norte, three Lumad (indigenous people of Mindanao) children were injured on 14 March 2007 when aerial bombs launched during military operations against communist rebels landed in their community. In the other incident, four children were seriously injured when a member of a local CAFGU unit threw a grenade which landed near them in Toril, Davao City, on 31 January 2006.

32. Two boys, 17 years of age, who belonged to a group of seven construction workers, were kidnapped by the Abu Sayyaf Group in Sulu Province on 15 April 2007 and subsequently decapitated. The boys were killed when the group's demand for a ransom of 5 million Philippine pesos was rejected. Kidnapping and murder charges were filed by the Sulu police against Albader Parad, leader of the Abu Sayyaf Group.

C. Abduction

33. The country task force received reports of two child abductions allegedly perpetrated by elements of the Armed Forces of the Philippines. The incidents occurred on 29 March 2006 in Bulacan Province and on 1 January 2007 in Leyte Province. In the Bulacan case, a 15-year-old boy and his male guardian went missing after members of the 56th Infantry Battalion of the Philippine army raided their house in San Jose del Monte town. The two are still missing and no case has been filed.

D. Rape and other forms of sexual violence

34. The country task force has reports of the rape of one girl committed by members of the Armed Forces of the Philippines but is not aware of any reports of sexual violence filed against members of MILF, the Abu Sayyaf Group/Jemaah Islamiya or NPA. The rape victim was a 15-year-old girl from Maguindanao Province, North Cotabato, who was sexually assaulted by a soldier on 19 September 2006. The soldier's army unit negotiated an out-of-court settlement and reportedly paid 120,000 Philippine pesos (around $3,000) as "diyat" or blood money.

E. Attacks on schools and hospitals

35. The country task force has received credible reports of nine cases of the occupation of schools and one of a health centre. Of these, nine were reportedly

committed by Government forces and one by MILF; nine occurred in 2007 and one in 2006. The majority of these cases, seven occurred in Mindanao, with three related to the Moro conflict. Most cases involved the occupation of schools, which are often used as temporary barracks or command posts by Government forces. Verbal reports were given by local Government partners in Sulu of soldiers placing artillery on school grounds during military operations, in violation of international humanitarian law and of Philippine national law. Republic Act No. 7610 decrees that "... public infrastructure such as schools, hospitals and rural health units shall not be utilized for military purposes such as command posts, barracks, detachments, and supply depots".

36. In the Province of Bukidnon, a teacher was killed on 16 February 2006 when a vigilante group called Alamara fired at a group of pupils and their teacher gathering root crops for a school activity. The teacher was accused of being an NPA member. In another incident in Aurora Province during the 9-12 July 2007 military operation against NPA, soldiers of the Armed Forces of the Philippines used a school to gather the community members to caution against supporting the rebels. The soldiers displayed the corpse of an alleged NPA soldier in the school premises and forced the residents to identify the corpse. This spread fear in the community and classes were cancelled for some time because teachers and students refused to re-enter the school. The occupation of a health centre by the Armed Forces of the Philippines occurred in Sulu Province during military operations against the Abu Sayyaf Group in August 2007. The army established a base in the health station, causing damage, and stayed for two days, during which time the health centre was inoperable. In the eighth case, involving MILF, the local commander admitted to occupying a school in Cotabato Province to eat, leaving the building after a few hours.

F. Denial of humanitarian access

37. Though humanitarian aid has been interrupted during military operations on a number of occasions in the reporting period, no trend of deliberate denial has been recorded to date.

IV. Dialogue and action plans to reduce violations of children's rights

A. General coordination on child protection issues

38. The Council for the Welfare of Children, the Government agency responsible for policy-setting, coordination and monitoring of activities for children, set up a subcommittee on children affected by armed conflict and displacement in 2000, composed of 20 Government agencies and non-governmental organizations. The subcommittee formulates and recommends policy and standards and coordinates initiatives for children. Members of the subcommittee had been involved in the formulation of policies on the protection and handling of children in times of disaster. They are also leading the efforts to amend existing laws to provide better protection for children affected by armed conflict and to build the capacities of service providers to protect children during emergencies. Members of the subcommittee, particularly the non-governmental organizations, are also involved in

community-based organizing and delivery of services for children in conflict-affected communities.

39. Following Executive Order 56, issued in 2000, a comprehensive programme framework for children in armed conflict was adopted, and an inter-agency committee on children involved in armed conflict was created, headed by the Office of the Presidential Adviser on the Peace Process. This Government organ is responsible for monitoring implementation of the comprehensive programme framework for the prevention, rescue and social reintegration of children involved in armed conflict, as well as leading advocacy and awareness-raising on issues related to children involved in armed conflict. While the inter-agency committee is focused on children involved in armed conflict, the subcommittee on children affected by armed conflict and displacement is concerned with all children affected by natural and man-made disasters. The inter-agency committee has finalized a memorandum of agreement on the treatment and handling of children involved in armed conflict for Government agencies, which provides for a faster turnover of children by the police and the military to the custody of social welfare agencies. Although the Office of the Presidential Adviser on the Peace Process is mandated to advocate with parties to the conflict for the purpose of preventing violations of children's rights, it has yet to develop these issues in the course of peace negotiations.

B. Progress on dialogue and actions plans

40. The Philippines is signatory to all core child protection instruments, including the Convention on the Rights of the Child, its Optional Protocol on the Involvement of Children in Armed Conflict and ILO Convention 182.

41. National laws have clear provisions for the protection of children in situations of armed conflict and recruitment. Among these are Republic Act No. 7610, on the special protection of children against abuse, exploitation and discrimination, which cites children as "zones of peace" and stipulates that "children shall not be the object of attack and shall be entitled to special respect" and that "children shall not be recruited to become members of the Armed Forces of the Philippines or its civilian units or other armed groups, nor be allowed to take part in the fighting, or used as guides, couriers or spies".

42. Similarly, Republic Act No. 8371, the Indigenous Peoples Rights Act, prohibits the recruitment of "children of indigenous cultural communities or indigenous peoples into the armed forces under any circumstances" and Republic Act No. 9208, the Anti-Trafficking of Persons Act, provides sanctions against the recruitment, transport and adoption of "a child to engage in armed activities in the Philippines and abroad". Finally, Republic Act No. 9231, on the elimination of child labour, prohibits the worst forms of child labour including "recruitment of children for use in armed conflict".

43. Despite these laws, policies, and coordination mechanisms, no official dialogue has been engaged to date between the Government and non-State actors on the release and reintegration of children associated with armed groups, nor any action plan developed to halt the recruitment or use of children by armed groups. MNLF and NPA have resisted talk of a formal demobilization of children and prevention of the recruitment of children outside of a final peace process outcome.

To date, the Government has not taken a decision to push this important issue within the peace processes under way.

C. Opportunities for dialogue with parties to the conflict

44. Although the country task force has just begun its work, dissemination of information on Security Council resolution 1612 (2005) has been undertaken through orientation for members of the Inter-Agency Committee on Children Involved in Armed Conflict and the Subcommittee on Children Affected by Armed Conflict and Displacement. The Government peace panels, through the Office of the Presidential Adviser on the Peace Process, have also been informed of resolution 1612 (2005) and other relevant Security Council resolutions. The continuing communications with the National Democratic Front (NDF) through its monitoring committee and with MILF through the Bangsamoro Development Agency present opportunities for meaningful dialogue aimed at establishing mechanisms for the prevention, monitoring of and response to grave child rights violations within their ranks.

45. While the recently created country task force on monitoring and reporting is currently developing a workplan to engage at the inter-agency level, some noteworthy initiatives have been conducted by UNICEF and ILO. In early 2007, UNICEF and the Office of the Presidential Adviser on the Peace Process launched the "Days of Peace" campaign to promote a climate for peace in Mindanao. Discussions with the top leadership of MILF resulted in the signing of a joint communiqué between UNICEF and MILF. This, the first agreement between MILF and a United Nations agency, defined cooperation between MILF, national and local government agencies, international ceasefire monitors and UNICEF to implement a programme to provide basic social services for children in 645 villages referred to as "barangays", those most affected by conflict across 10 provinces in Mindanao.

46. A second phase of the campaign, launched in December 2007, helps communities to improve the learning environment in the Tahduriyas, Islamic preschools, by providing early childhood care and development packages adapted to the Muslim culture and by supporting training for Tahduriya workers. As a result of the campaign, coverage of basic services for children in conflict zones increased significantly, and a higher level of cooperation between the Government and MILF in respect of children was achieved. This mechanism presents great potential for preventing, monitoring and responding to child rights violations.

47. UNICEF has also opened a line of communication with NDF to help increase the group's awareness of child rights and protection issues and improve policies and practices. On 22 November 2007, the NDF monitoring committee proposed to the Government monitoring committee that representatives from UNICEF, the International Committee of the Red Cross (ICRC) and the Government of Norway participate as international observers in an investigation of 12 cases of children's deaths that had been filed with the joint monitoring committee in 2006. Such developments can be opportunities for engaging the armed groups in dialogue on the protection of children's rights. The formulation of action plans as prescribed by the Security Council in its resolution 1539 (2004) will be explored through mechanisms that have emerged from the peace process between the Government and non-State armed groups. The country task force will rely on the support of the Office of the

Presidential Adviser on the Peace Process, the SC-CAACD and the IAC-CIAC in the negotiations for these action plans.

48. Engaging the Abu Sayyaf Group in a dialogue is currently not possible because of the high security risks involved. The group is the object of ongoing military operations and has never been engaged in any substantive political dialogue save for negotiations for ransom money. Meanwhile, the ongoing peace processes with the small breakaway communist factions are opportunities to bring child protection to the negotiating table.

49. A visit by the Special Representative of the Secretary-General for Children and Armed Conflict could provide opportunities to engage all parties to the conflict, including non-State actors, through high-level consultations with the Government of the Philippines; to push for the inclusion of children's issues in peace negotiations; to advocating for the allocation of resources; and to urging further support from the Government.

V. Establishment of the monitoring and reporting mechanism

50. A country task force on monitoring and reporting was convened in March 2007, and the Government affirmed its agreement with the implementation of a monitoring and reporting mechanism on grave child rights violations in situations of armed conflict on 19 July 2007. Composed of United Nations agencies, ICRC, the Commission on Human Rights of the Philippines and civil society organizations, the country task force conducted orientations on Security Council resolution 1612 (2005) and the monitoring and reporting mechanism for various stakeholder groups, including members of the Inter-Agency Committee on Children Involved in Armed Conflict and the Subcommittee on Children Affected by Armed Conflict and Displacement. A state-of-knowledge study of existing monitoring systems on child rights violations is under way and will inform the development of the country task force's workplan in 2008. UNICEF is supporting child-focused non-governmental organizations, the Commission on Human Rights and the Government's Inter-Agency Committee in documenting and reporting violations of children's rights in conflict situations and setting up a database.

51. The country task force collaborates and shares relevant information with the line government agencies and other concerned child-focused groups through the Subcommittee and the Inter-Agency Committee.

52. Importantly, efforts will also be made to formulate action plans to establish monitoring and reporting mechanisms in MILF and CPP areas, by integrating them in the terms of reference of existing monitoring mechanisms created by the peace process.

VI. Programmatic response

A. General child protection initiatives

53. Republic Act No. 7610 on the protection of children against abuse, exploitation and discrimination provides for a special committee for the protection of children, chaired by the Department of Justice and tasked to formulate a

comprehensive child protection programme in consultation with the Department of Social Welfare and Development and others. The comprehensive programme on child protection, updated in 2006, identifies children affected by armed conflict and displacement as a priority issue and proposes a wide range of programmatic interventions based on the "protective environment framework" for children.

54. Despite a strong legal framework and national plans of action addressing different child protection issues, including children affected by armed conflict, the response to grave violations remains weak and inadequate. The Department of Social Welfare and Development provides services to children formerly associated with armed groups who have been arrested and referred to it, but its data collection and response system is limited to one violation, "recruitment and use", and falls short of addressing other violations. Non-governmental organizations have tried to fill the gap but cannot increase the scale of their activities because of limited resources. Therefore, a countrywide programme that is functional and reaches out to all children associated with armed groups and responds to all six grave violations is sorely needed.

B. Specific initiatives for children affected by armed conflict

55. The Government launched a comprehensive programme framework for children involved in armed conflict on November 2001. The framework includes advocacy initiatives, headed by the Office of the Presidential Adviser on the Peace Process and the Office of the Press Secretary-Philippine Information Agency, and calls for cooperation among the general public, media, Government and the armed groups in raising awareness of issues related to children and armed conflict, including through training and seminars. The framework further calls for a coordinated effort by the Department of Social Welfare and Development, the Armed Forces of the Philippines, the Department of National Defence, the Department of the Interior and Local Government and the Philippine National Police for the rescue, rehabilitation and reintegration of children involved in armed conflict.

56. An inter-agency memorandum of agreement on the handling and treatment of children involved in armed conflict was initiated by the Office of the Presidential Adviser on the Peace Process and signed on 21 March 2000. The memorandum, which was signed by the Department of National Defence, the Department of the Interior and Local Government, and the Department of Health, the Commission on Human Rights, the Armed Forces of the Philippines and the Philippines National Police, requires police and military authorities "to protect the child from further exploitation or trauma with no tactical interrogation or any similar forms of investigation or use in military operations". It requires that the child be informed of his/her rights, have his/her basic needs met, be protected from media exposure and, be transferred to the Department of Social Welfare and Development or a local authority within 24 hours "under normal conditions" and within 72 hours "when the situation does not warrant the turnover of the child within the prescribed period". However, the Department of Social Welfare and Development provides services only to children who have been referred to it, most of whom have been arrested by the military, and does not support children who have left the armed groups of their own volition. The 24 children who were referred to the Department during the reporting period were provided with basic necessities, educational assistance,

counselling, livelihood support, recreational services, family tracing, reintegration support and family-based alternatives when necessary.

57. However, the memorandum of agreement on the handling of children involved in armed conflict is largely ignored. Reports submitted to the country task force confirm that some children have remained in military custody for extended periods and have been charged with rebellion, illegal possession of firearms and other security-related offences in violation of Philippine law. Some children formerly in the custody of the Armed Forces of the Philippines have been exposed to media scrutiny by the army.

58. Through its International Programme on the Elimination of Child Labour, ILO launched an initiative to prevent the recruitment of child soldiers and to support the reintegration into society of those children who have been members of armed groups. The project was implemented in the Autonomous Region in Muslim Mindanao during the period 2003-2006 in partnership with national and local government units. In all, 300 children and youth were provided with education, training and counselling support services. Most beneficiaries admitted to having actively participated in armed conflict as child combatants or couriers. The project conducted research which provided a profile of children involved in armed conflict in the region.

59. A project entitled "Upholding the rights and well-being of children affected by armed conflict" a part of the UNICEF-Government programme for 2005-2009, is implemented 19 provinces. and aims at improving the situation of children in these areas while strengthening the prevention of possible grave violations. It works with national agencies, local government units and non-governmental organizations to provide emergency and basic services for children affected by armed conflict through capacity-building and community-based approaches. In 2005, a needs assessment of children and women affected by armed conflict was conducted under the project. Basic or emergency assistance was provided to over 33,000 children who were displaced or living in conflict-affected communities between 2005 and 2007.

60. The United Nations-Government ACT (Action for Conflict Transformation) for Peace Programme, which promotes peace and development in the southern Philippines, counts children and youth among its beneficiaries. Managed by UNDP, it supports the Government-MNLF peace agreement and seeks to strengthen peacebuilding efforts by working with multiple stakeholders. The programme is active in 19 provinces and 14 cities, corresponding to the areas originally included in the former Special Zone of Peace and Development plus the Caraga region. The programme focuses on conflict-affected and conflict-vulnerable communities in central Mindanao while dev.ting particular attention to vulnerable groups such as women and children. It promotes a culture of peace and seeks to transform conflict communities into peace and development communities.

61. Alongside the above-mentioned efforts, the Government of the Philippines has taken measures to ensure that all stakeholders, particularly local service providers such as social workers, health officers and military personnel, are continuously made aware of the non-negotiable universal rights of children in times of peace and in situations of armed conflict in order to prevent violations of children's rights and to ensure that any abuses are documented and responded to immediately.

VII. Recommendations

A. Recommendations directed at the Government of Philippines

62. The Government of the Philippines is urged to examine, in cooperation with the United Nations country team and other relevant actors, the need to include specific provisions for the protection of children in all peace or ceasefire negotiations.

63. The Government is also urged to facilitate efforts by the United Nations country team to enter into dialogue with the CPP, MILF and Abu Sayyaf armed groups in order to prepare and implement action plans to halt the recruitment and use of children and prevent and respond to other violations against children.

64. The Government should continue to work to end grave violations against children by the Armed Forces of the Philippines, the Philippine National Police and paramilitary groups and ensure an immediate end to illegal detention, excessive use of force, killings and indiscriminate shooting of civilians, including children. In this regard, it is recommended that the Government of the Philippines consider designating a high-level security forces focal point to work regularly with the country task force on matters related to children and armed conflict.

65. The Government is urged to investigate and prosecute, as a matter of priority, those responsible for grave violations against children and to ensure the commitment of law enforcement and judicial officials to provide protection to witnesses and victims of such grave violations.

66. The Government is encouraged to strengthen its child-protection capacity, with assistance from the United Nations country team as appropriate, giving emphasis to the training of army personnel, police and security forces to prevent any act that might lead to grave violation of children's rights, and to ensure compliance with international and national laws and agreements, including the inter-agency agreement on the treatment and handling of children involved in armed conflict.

67. The Government of the Philippines is encouraged to consider amending Republic Act No. 7610 to exclude the prosecution of children who are arrested for reasons related to armed conflict and to reflect the provisions of the memorandum of agreement on the treatment and handling of children involved in armed conflict, which provide for the rehabilitation and reintegration of such children rather than their prosecution.

B. Recommendations directed at the Communist Party of the Philippines, Moro Islamic Liberation Front and Abu Sayyaf armed groups

68. It is strongly urged that all parties comply with the resolutions of the Security Council on children and armed conflict by entering into dialogue with the United Nations country team for the preparation and implementation of time-bound action plans to ensure the immediate separation of any children associated in any capacity with these armed groups and the development of programmes for the reintegration of the children in their families and communities. These programmes should be developed in line with the Paris Principles on children associated with armed forces and armed groups.

69. The CPP, MILF and Abu Sayyaf armed groups are urged to ensure that no children are associated with them in any way, to issue clear military orders to their rank and file strictly prohibiting the recruitment and use of children, and to undertake disciplinary actions against any member who contradicts those orders.

70. The CPP, MILF and Abu Sayyaf armed groups are strongly urged to allow secure and unimpeded access to monitoring and reporting personnel to their areas of operation in order to monitor and verify the protection of children affected by armed conflict.

C. Recommendations directed at the international community

71. The international community should support the work of the country task force to increase the capacity of the monitoring and reporting mechanism, to ensure that adequate information is collected and communicated on the impact of grave violations against children, with special attention to the need to develop monitoring and reporting coverage for all areas, to ensure reintegration of the children released from armed groups and to undertake other appropriate responses in conjunction with the Government of the Philippines.

72. The international donor community should make sufficient resources available to support programmes aimed at preventing children from joining armed groups, responding to violations committed against children in armed conflict and ensuring their reintegration into their families and communities.

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The Security Council,

Reaffirming its resolutions 1540 (2004) of 28 April 2004 and 1673 (2006) of 27 April 2006,

Reaffirming that proliferation of nuclear, chemical and biological weapons, as well as their means of delivery, constitutes a threat to international peace and security,

Reaffirming the Statement of its President adopted at the Council's meeting at the level of Heads of State and Government on 31 January 1992 (S/23500), including the need for all Member States to fulfil their obligations in relation to arms control and disarmament and to prevent proliferation in all its aspects of all weapons of mass destruction,

Reaffirming that prevention of proliferation of nuclear, chemical and biological weapons should not hamper international cooperation in materials, equipment and technology for peaceful purposes while goals of peaceful utilization should not be used as a cover for proliferation,

Affirming its resolve to take appropriate and effective actions against any threat to international peace and security caused by the proliferation of nuclear, chemical and biological weapons and their means of delivery, in conformity with its primary responsibilities, as provided for in the United Nations Charter,

Reaffirming its decision that none of the obligations in resolution 1540 (2004) shall be interpreted so as to conflict with or alter the rights and obligations of State Parties to the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention or alter the responsibilities of the International Atomic Energy Agency or the Organization for the Prohibition of Chemical Weapons,

Noting also that international cooperation between States, in accordance with international law, is required to counter the illicit trafficking by non-State actors in nuclear, chemical and biological weapons, their means of delivery, and related materials,

Endorsing the work already carried out by the Committee established pursuant to resolution 1540 (2004), hereafter the 1540 Committee, in accordance with its fifth Programme of Work,

Bearing in mind the importance of the report requested in paragraph 6 of resolution 1673 (2006),

Noting that not all States have presented to the 1540 Committee their national reports on implementation of resolution 1540 (2004), and that the full implementation of resolution 1540 (2004) by all States, including the adoption of national laws and measures to ensure implementation of these laws, is a long-term task that will require continuous efforts at national, regional and international levels,

Recognizing in that regard the importance of dialogue between the 1540 Committee and Member States and stressing that direct contact is an effective means of such dialogue,

Recognizing the need to enhance coordination of efforts on national, regional, subregional and international levels, as appropriate, in order to strengthen a global response to this serious challenge and threat to international security,

Emphasizing in that regard the importance of providing States, in response to their requests, with effective assistance that meets their needs and stressing the importance of ensuring that the clearinghouse function for assistance is efficient and accessible,

Taking note of international efforts towards full implementation of resolution 1540 (2004), including on preventing the financing of proliferation-related activities, taking into consideration the guidance of the Financial Action Task Force (FATF),

Acting under Chapter VII of the Charter of the United Nations,

1. *Reiterates* its decisions in and the requirements of resolution 1540 (2004) and emphasizes the importance for all States to implement fully that resolution;

2. *Again calls* upon all States that have not yet presented a first report on steps they have taken or intend to take to implement resolution 1540 (2004) to submit such a report to the 1540 Committee without delay;

3. *Encourages* all States that have submitted such reports to provide, at any time or upon the request of the 1540 Committee, additional information on their implementation of resolution 1540 (2004);

4. *Encourages* all States to prepare on a voluntary basis summary action plans, with the assistance of the 1540 Committee as appropriate, mapping out their priorities and plans for implementing the key provisions of resolution 1540 (2004), and to submit those plans to the 1540 Committee;

5. *Encourages* States that have requests for assistance to convey them to the 1540 Committee, and *encourages* them to make use of the Committee's assistance template to that effect; *urges* States and international, regional and subregional organizations to inform the Committee as appropriate by 25 June 2008 of areas in which they are able to provide assistance; *calls upon* States and such organizations, if they have not done so previously, to provide the 1540 Committee with a point of contact for assistance by 25 June 2008;

6. *Decides* to extend the mandate of the 1540 Committee for a period of three years, with the continued assistance of experts, until 25 April 2011;

7. *Requests* the 1540 Committee to complete its report as set out in paragraph 6 of resolution 1673 (2006), and to submit it to the Security Council as soon as possible but no later than 31 July 2008;

8. *Requests* the 1540 Committee to consider a comprehensive review of the status of implementation of resolution 1540 (2004) and to report to the Council on its consideration on the matter by no later than 31 January 2009;

9. *Decides* that the Committee should submit an annual Programme of Work to the Security Council before the end of each January;

10. *Decides* that the 1540 Committee shall continue to intensify its efforts to promote the full implementation by all States of resolution 1540 (2004), through its Programme of Work which includes the compilation of information on the status of States' implementation of all aspects of resolution 1540 (2004), outreach, dialogue, assistance and cooperation, and which addresses in particular all aspects of paragraphs 1 and 2 of that resolution, as well as of paragraph 3 which encompasses (a) accountability, (b) physical protection, (c) border controls and law enforcement efforts and (d) national export and trans-shipment controls including controls on providing funds and services such as financing to such export and trans-shipment;

11. *Decides* in that regard to:

(a) *Encourage* the pursuit of the ongoing dialogue between the 1540 Committee and States on their further actions to implement fully resolution 1540 (2004) and on technical assistance needed and offered;

(b) *Request* the 1540 Committee to continue to organize and participate in outreach events at the regional, subregional and, as appropriate, national level promoting States' implementation of resolution 1540 (2004);

(c) *Urge* the 1540 Committee to continue strengthening the Committee's role in facilitating technical assistance for implementation of resolution 1540 (2004), including by engaging actively in matching offers and requests for assistance through such means as assistance templates, action plans or other information submitted to the 1540 Committee;

(d) *Encourage* the 1540 Committee to engage actively with States and relevant international, regional and subregional organizations to promote the sharing of experience and lessons learned in the areas covered by resolution 1540 (2004), and to liaise on the availability of programmes which might facilitate the implementation of resolution 1540 (2004);

(e) *Request* the 1540 Committee to provide opportunities for interaction with interested States and relevant international, regional and subregional organizations to promote implementation of resolution 1540 (2004);

12. *Reiterates* the need to enhance ongoing cooperation between the 1540 Committee, the Security Council Committee established pursuant to resolution 1267 (1999), concerning Al-Qaida and the Taliban, and the Security Council Committee established pursuant to resolution 1373 (2001), concerning counter-terrorism, including through, as appropriate, enhanced information sharing, coordination on visits to countries, within their respective mandates, technical assistance and other

issues of relevance to all three committees, and expresses its intention to provide guidance to the committees on areas of common interest in order better to coordinate their efforts;

13. *Urges* the 1540 Committee to encourage and take full advantage of voluntary financial contributions to assist States in identifying and addressing their needs for the implementation of resolution 1540 (2004), and requests the 1540 Committee to consider options for developing and making more effective existing funding mechanisms, and to report to the Council on its consideration of the matter by no later than 31 December 2008;

14. *Decides* that the 1540 Committee will submit to the Security Council a report no later than 24 April 2011 on compliance with resolution 1540 (2004) through the achievement of the implementation of its requirements;

15. *Decides* to remain seized of the matter.